

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>RUBEN PADILLA</p> <p>v.</p> <p>Respondent:</p> <p>HUERFANO COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 52056</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on July 21, 2010, Lyle D. Hansen and James R. Meurer presiding. Petitioner, Mr. Ruben Padilla appeared pro se by phone. Respondent was represented by Garrett Sheldon, Esq. Petitioner is protesting the 2009 classification of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**Parcel 18B Majors Ranch Phase No. 2
Walsenburg, Colorado
(Huerfano County Schedule No. 474901)**

The property consists of 204.6 acres classified as “vacant land” and located approximately 15 miles from the town of Walsenburg in Huerfano County. Topography of the acreage is flat to rolling, there are no buildings on the property, and the acreage does not have water. Approximately 20% of the property consists of piñon tree groves and the remainder is suitable for, but not used for, grazing. Properties surrounding the subject consist of large-tract residential subdivisions and a Bureau of Land Management tract.

In 2008 the Majors Ranch subdivision lost its agricultural classification; however, this classification was reinstated in 2009 subject to the property owners executing a master lease for grazing. Mr. Padilla elected not to participate in the master lease resulting in his acreage retaining the vacant land classification.

Mr. Padilla testified that he purchased the property in 1989, that the acreage consists of piñon groves, and that it is used for the growing of piñon trees and the harvesting of nuts. Mr. Padilla further testified that he visits the property approximately one to two times per year and that the harvesting of the nuts has been done by a third party, Ms. Arlene Vasquez, since 2005. Mr. Padilla produced receipts reflecting annual income of \$25.00 per year, as well as a 2008 tax return for the right to harvest an unlimited quantity of the piñon nuts by Ms. Vasquez. No leases or other documentation relative to the growth, maintenance, harvesting, and agricultural use of the property were submitted by Petitioner.

Petitioner is requesting agricultural classification for the subject property for tax year 2009

Respondent presented no exhibits at the hearing. Respondent's witness, Mr. Bruce Quintana testified that the property was not actively engaged in an organized agricultural process and that the harvesting of piñon nuts on properties similar to the subject was a recreational endeavor rather than constituting agricultural use. Mr. Quintana further testified that the property was not being used to obtain a monetary profit.. The witness emphasized that no leases or agricultural operating data were produced by Petitioner supporting organized agricultural use.

Respondent assigned an actual value of \$35,191.00 and vacant land classification for tax year 2009.

Respondent presented sufficient probative evidence and testimony to prove that the subject property was correctly classified for tax year 2009. The Board bases this conclusion on the fact no leases or other documentation relative to the growth, maintenance, harvesting, and agricultural use of the property were submitted by Petitioner. In addition, no support was submitted indicating that the primary purpose of the activity on the property was to obtain a monetary profit pursuant to Section 39-1-102(3.5), C.R.S.

After careful consideration of the testimony presented in the hearing, the Board concludes that Respondent's assigned classification of vacant land is reasonable and supportable.

ORDER:

The petition is denied.

APPEAL:

If the decision of the Board is against Petitioner, Petitioner may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

If the decision of the Board is against Respondent, Respondent, upon the

recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation of the respondent county, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation of the respondent county, Respondent may petition the Court of Appeals for judicial review of such questions within thirty days of such decision.

Section 39-8-108(2), C.R.S.

DATED and MAILED this 24 day of September 2010.

BOARD OF ASSESSMENT APPEALS

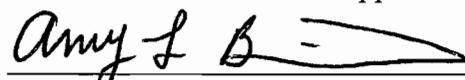


Lyle D. Hansen



James R. Meurer

I hereby certify that this is a true and correct copy of the decision of the Board of Assessment Appeals.



Amy Bruins

